

REMARKS

This is a full and timely response to the outstanding Office action mailed September 23, 2004. Upon entry of the amendments in this response claims 1-23 are pending. More specifically, claims 1, 21, and 22 are amended. These amendments are specifically described hereinafter. It is believed that the foregoing amendments add no new matter to the present application.

I. Present Status of Patent Application

The oath or declaration is allegedly defective because it was not executed in accordance with either 37 CFR 1.66 or 1.68.

Claims 1-3 and 7-23 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Hein-Magnussen *et al.* (US 2004/0132407 A1). Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hein-Magnussen *et al.* (US 2004,0132407 A1) in view of Chen *et al.* (US 2003/0054810 A1). Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over over Hein-Magnussen *et al.* (US 2004,0132407 A1) in view of Chen *et al.* (US 2003/0054810 A1) as applied to claim 4 above, and further in view of Mousseau *et al.* (US 5,559,800).

II. Miscellaneous Issues

A. Oath and Declaration

The oath or declaration is allegedly defective because it was not executed in accordance with either 37 CFR 1.66 or 1.68. Attached herewith is a copy of the properly executed declaration including the return postcard from the USPTO. Applicant respectfully requests that this rejection be withdrawn.

B. Findings of Claim Elements as Well-known

In the Office Action, certain subject matter is regarded as well-known. In particular, this subject matter includes: (1) a menu of telecommunications services capable of being displayed by the wireless client in claim 4; (2) receiving a user input through a graphical user input displayed on the wireless client in claim 6; and (3) exchanging user information over a control channel in claim 5. Applicants respectfully contend that the aforementioned subject matter has not been instantly and unquestionably demonstrated to be well-known. Per MPEP 2144.03(B), "If such notice is taken, the basis for such reasoning must be set forth explicitly. The Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge." As specific factual findings predicated on sound technical and scientific reasoning in support of the conclusion of common knowledge are not provided in the Office Action, the subject matter should not be considered to be well-known.

III. Rejections Under 35 U.S.C. §102(e)

A. Claims 1-3 and 7-19

The Office Action rejects claims 1-3 and 7-19 under 35 U.S.C. 102(e) as allegedly being anticipated by Hein-Magnussen *et al.* (U.S. 2004/0132407 A1). For the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 1 recites:

1. A communication method, comprising:
receiving a request for a telecommunications service from a wireless client;
providing a local exchange point of presence to the wireless client in response to the request, *the local exchange point of presence comprising a gateway selected based on the geographic location of the wireless client*; and
providing the telecommunications service to the wireless client through the local exchange point of presence.

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that independent claim 1 as amended is allowable for at least the reason that *Hein-Magnussen* does not disclose, teach, or suggest at least **the local exchange point of presence comprising a gateway selected based on the geographic location of the wireless client**. The Office Action asserts that *Hein-Magnussen* discloses the gateway with element 202, which is a connecting unit. The connecting units (202, 202') may be a standard computer, PDA, a mobile telephone etc. with Internet connection, preferably a broadband connection. *See Hein-Magnussen*, [0132-0134]. However, element 202 cannot be interpreted as a gateway. *Hein-Magnussen* teaches away from using a gateway in describing drawbacks of the prior art. "The two ... systems both have a drawback that they require a specialized type of equipment (base station, gateway, etc.) which is a great obstacle to the flexibility ... *See Hein-Magnussen*, [0013]. *Hein-Magnussen* teaches a system in which a gateway cannot be used. Therefore, *Hein-Magnussen* does not anticipate claim 1, and the rejection should be withdrawn.

Because independent claim 1 as amended is allowable over the cited art of record, dependent claims 2-3 and 7-19 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 2-3 and 7-19 contain all the steps/features of independent claim 1. *See Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, since dependent claims 2-3 and 7-19 are patentable over *Hein-Magnussen*, the rejection to claims 2-3 and 7-19 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 1, dependent claims 2-3 and 7-19 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited art of record. Hence there are other reasons why dependent claims 2-3 and 7-19 are allowable.

B. Claim 20

The Office Action rejects claim 20 under 35 U.S.C. 102(e) as allegedly being anticipated by Hein-Magnussen *et al.* (U.S. 2004/0132407 A1). For the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 20 recites:

20. A ***communication apparatus comprising a gateway*** configured to:
receive a request for a telecommunications service from a wireless client;
provide a local exchange point of presence to the wireless client in response to the request, the local exchange point of presence based on the geographic location of the wireless client; and
provide the telecommunications service to the wireless client through the local exchange point of presence.

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that independent claim 20 is allowable for at least the reason that *Hein-Magnussen* does not disclose, teach, or suggest at least a **communication apparatus comprising a gateway**. The Office Action asserts that *Hein-Magnussen* discloses the gateway with element 202, which is a connecting unit. The connecting units (202, 202') may be a standard computer, PDA, a mobile telephone etc. with Internet connection, preferably a broadband connection. *See Hein-Magnussen*, [0132-0134]. However, element 202 cannot be interpreted as a gateway. *Hein-Magnussen* teaches away from using a gateway in describing drawbacks of the prior art. "The two ... systems both have a drawback that they require a specialized type of equipment (base station, gateway, etc.) which is a great obstacle to the flexibility ... *See Hein-Magnussen*, [0013]. *Hein-Magnussen* teaches a system in which a gateway cannot be used. Therefore, *Hein-Magnussen* does not anticipate claim 20, and the rejection should be withdrawn.

C. Claim 21

The Office Action rejects claim 21 under 35 U.S.C. 102(e) as allegedly being anticipated by Hein-Magnussen *et al.* (U.S. 2004/0132407 A1). For the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 21 recites:

21. A communications apparatus, comprising:
means for receiving a request for a telecommunications service from a wireless client;
means for providing a local exchange point of presence to the wireless client in response to the request, ***the local exchange point of presence comprising a gateway selected based on the geographic location of the wireless client***; and
means for providing the telecommunications service to the wireless client through the local exchange point of presence.

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that independent claim 21 as amended is allowable for at least the reason that *Hein-Magnussen* does not disclose, teach, or suggest at least **the local exchange point of presence comprising a gateway selected based on the geographic location of the wireless client**. The Office Action asserts that *Hein-Magnussen* discloses the gateway with element 202, which is a connecting unit. The connecting units (202, 202') may be a standard computer, PDA, a mobile telephone etc. with Internet connection, preferably a broadband connection. *See Hein-Magnussen*, [0132-0134]. However, element 202 cannot be interpreted as a gateway. *Hein-Magnussen* teaches away from using a gateway in describing drawbacks of the prior art. "The two ... systems both have a drawback that they require a specialized type of equipment (base station, gateway, etc.) which is a great obstacle to the flexibility ... *See Hein-Magnussen*, [0013].

Hein-Magnussen discloses in the background section that “[a] gateway (GW) constitutes the very interface to the DECT base station and handles the conversion of telephone numbers into IP addresses. See *Hein-Magnussen*, [0010]. *Hein-Magnussen* teaches a system in which a gateway cannot be used. Notwithstanding, no such teaching regarding using a gateway in such a system can be identified anywhere within this reference. Therefore, *Hein-Magnussen* does not anticipate claim 21, and the rejection should be withdrawn.

D. Claims 22-23

The Office Action rejects claims 22-23 under 35 U.S.C. 102(e) as allegedly being anticipated by *Hein-Magnussen et al.* (U.S. 2004/0132407 A1). For the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 22 recites:

22. A computer program stored on a computer-readable medium, the computer program comprising instructions to:

- receive a request for a telecommunications service from a wireless client;
- provide a local exchange point of presence to the wireless client in response to the request, ***the local exchange point of presence comprising a gateway selected based on the geographic location of the wireless client***; and
- provide the telecommunications service to the wireless client through the local exchange point of presence.

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. See, e.g., *E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that independent claim 22 as amended is allowable for at least the reason that *Hein-Magnussen* does not disclose, teach, or suggest at least **the local exchange point of presence comprising a gateway selected based on the geographic location of the wireless client**. The Office Action asserts that *Hein-Magnussen* discloses the gateway

with element 202, which is a connecting unit. The connecting units (202, 202') may be a standard computer, PDA, a mobile telephone etc. with Internet connection, preferably a broadband connection. *See Hein-Magnussen*, [0132-0134]. However, element 202 cannot be interpreted as a gateway. *Hein-Magnussen* teaches away from using a gateway in describing drawbacks of the prior art. "The two ... systems both have a drawback that they require a specialized type of equipment (base station, gateway, etc.) which is a great obstacle to the flexibility ... *See Hein-Magnussen*, [0013]. *Hein-Magnussen* teaches a system in which a gateway cannot be used. Therefore, *Hein-Magnussen* does not anticipate claim 22, and the rejection should be withdrawn.

Because independent claim 22 as amended is allowable over the cited art of record, dependent claim 23 (which depends from independent claim 22) is allowable as a matter of law for at least the reason that dependent claim 23 contains all the steps/features of independent claim 22. *See Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, since dependent claim 23 is patentable over *Hein-Magnussen*, the rejection to claim 23 should be withdrawn and the claim allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 22, dependent claim 23 recites further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited art of record. Hence there are other reasons why dependent claim 23 is allowable.

IV. Rejections Under 35 U.S.C. §103(a)

A. Claims 4 and 6

The Office Action rejects claims 4 and 6 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Hein-Magnussen*, in view of *Chen et al.* (US 2003/0054810 A1). For the reasons set forth below, Applicant respectfully traverses the rejection.

Because independent claim 1 is allowable over the cited art of record, dependent claims 4 and 6 (which depend from independent claim 1) are allowable as a matter of law for at least the

reason that dependent claims 4 and 6 contain all the steps/features of independent claim 1. *See Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, the rejection to claims 4 and 6 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 1, dependent claims 4 and 6 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited art of record. Hence there are other reasons why dependent claims 4 and 6 are allowable.

B. Claim 5

The Office Action rejects claim 5 under 35 U.S.C. §103(a) as being unpatentable over *Hein-Magnussen*, in view of *Chen*, and further in view of *Mousseau* (US 5,559,800). For the reasons set forth below, Applicant respectfully traverses the rejection.

Because independent claim 1 is allowable over the cited art of record, dependent claim 5, (which depends from independent claim 1) is allowable as a matter of law for at least the reason that dependent claim 5 contains all the steps/features of independent claim 1. *See Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, the rejection to claim 5 should be withdrawn and the claim allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 1, dependent claim 5 recites further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited art of record. Hence there are other reasons why dependent claim 5 is allowable.

V. Cited Art Made of Record

The cited art made of record have been considered, but are not believed to affect the patentability of the presently pending claims. Other statements not explicitly addressed herein are not admitted.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-23 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



Jeffrey R. Kuester, Reg. No. 34,367

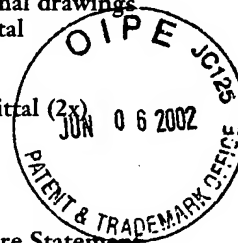
**THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.**
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100 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500



S.N. 10/098,698 Docket No. 010563
Title: Local Point of Pressure

The PTO acknowledges, and has stamped hereon,
the date of receipt of the below items, which were
mailed 6-6-02:

- [] New Pat. Appl. Tran.
(Utility, Design, CPA, RCE, PROV.)
- [] Fee Transmittal (2x)
- [X] Transmittal Letter - *comp. of filing*
- [] PCT Request and fee calc. sheet
- [] PCT Chapter 2 Demand
- [] Specification
- [] _____ sheets of informal drawings
- [] _____ sheets of formal drawings
- [] Maint. Fee Transmittal
- [] Oath/App. of Agent
- [] Assignment
- [] Amendment Transmittal (2x)
- [] Amendment
- [] 3.73 Statement
- [] Terminal Disclaimer
- [X] Declaration (S)
- [] Information Disclosure Statement
- [] Form PTO 1449
- [] References
- [] Priority document
- [] Foreign Draft Check
- [] Issue Fee
- [] PTO Forms 85(b)
- [] Fee Indication Sheet
- [X] check
- [X] *Stacy Byatt*



(X) PTO Form -
1533

JCP: br Express Mail

COPY



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Royce D. Jordan, Jr.
Application No.: 10/098,698
Filed: March 15, 2002

For: LOCAL POINT OF PRESENCE

Box: Missing Part
Commissioner for Patents
Washington, DC 20231

COPY

EXPRESS MAIL CERTIFICATE

"Express Mail" label number EU150762250US

Date of Deposit June 6, 2002

I hereby certify that the following attached paper or fee

COMPLETION OF FILING REQUIREMENTS-NONPROVISIONAL APPLICATION
COPY OF PTO FORM-1533
DECLARATION
STATEMENT BY ATTORNEY
CHECK PAYABLE TO PTO

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Box: Missing Part, Commissioner for Patents, Washington, DC 20231.

Beth H. Retort

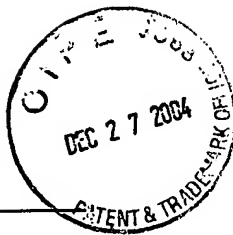
(Typed or printed name of person mailing paper or fee)

(Signature of person mailing paper or fee)

NOTE: Each paper must have its own certificate and the "Express Mail" label number as a part thereof or attached thereto. When, as here, the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper or fee it accompanies. Identification should include the serial number and filing date of the application as well as the type of paper being filed, e.g. complete application, specification and drawings, responses to rejection or refusal, notice of appeal, etc. If the serial number of the application is not known, the identification should include at least the name of the inventor(s) and the title of the invention.

NOTE: The label number need not be placed in each page. It should, however, be placed on the first page of each separate document, such as, a new application, amendment, assignment, and transmittal letter for a fee, along with the certificate of mailing by "Express Mail." Although the label number may be on checks, such a practice is not required. In order not to deface formal drawings it is suggested that the label number be placed on the back of each formal drawing or the drawings be accompanied by a set of informal drawings on which the label number is placed.

(Express Mail Certificate [8-3])



Practitioner's Docket No. 010563

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Royce D. Jordan, Jr.

Application No.: 10/098,698

Filed: March 15, 2002

For: LOCAL POINT OF PRESENCE

Box: Missing Part
Commissioner for Patents
Washington, DC 20231

COMPLETION OF FILING REQUIREMENTS
— NONPROVISIONAL APPLICATION

COPY

(check and complete this item, if applicable)

- I. ☒ This replies to the Notice to File Missing Parts of Application (PTO-1533) mailed April 10, 2002.

NOTE: If these papers are filed before the office letter issues, adequate identification of the original papers should be made, e.g., in addition to the name of the inventor and title of invention, the filing date based on the "Express Mail" procedure, the serial number from the return post card or the attorney's docket number added.

- ☒ A copy of the Notice to File Missing Parts of Application—Filing Date Granted (Form PTO-1533) is enclosed.

NOTE: The PTO requires that a copy of Form PTO-1533 be returned with the response to the notice to file missing parts to the application.

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

- ☐ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Box: Missing Part, Commissioner for Patents, Washington, DC 20231.

FACSIMILE

- ☐ transmitted by facsimile to the Patent and Trademark Office.

Signature

Date: _____

(type or print name of person certifying)

DECLARATION OR OATH

- II. ☒ No declaration or oath was filed. Enclosed is the original declaration or oath for this application.

NOTE: If the correct inventor or inventors are not named on filing a nonprovisional application under § 1.53(b) without an executed oath or declaration under § 1.63, the later submission of an executed oath or declaration under § 1.63 during the pendency of the application will act to correct the earlier identification of inventorship. 37 C.F.R. § 1.48(f)(1).

OR

- ☐ The declaration or oath that was filed was determined to be defective. A new original oath or declaration is attached. COPY

NOTE: For surcharge fee for filing declaration after filing date complete item VI(3) below.

NOTE: "The following combinations of information supplied in an oath or declaration filed after the filing date are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 C.F.R. 1.63:

"(1) name of inventor(s), and application number (consisting of the series code and the serial number; e.g., 08/123,456);

"(2) name of inventor(s), serial number and filing date;

"(3) name of inventor(s) and attorney docket number which was on the specification as filed;

"(4) name of inventor(s), title which was on the specification as filed and filing date;

"(5) name of inventor(s), title which was on the specification as filed and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration; or

"(6) name of inventor(s), title which was on the specification as filed and accompanied by a cover letter accurately identifying the application for which it was intended by either the application number (consisting of the series code and the serial number; e.g., 08/123,456), or serial number and filing date. Absent any statement(s) to the contrary, it will be presumed that the application filed in the PTO is the application which the inventor(s) executed by signing the oath or declaration."

Notice of Jul. 13, 1995 (1177 O.G. 60); M.P.E.P. § 601.01(a), 6th ed., rev. 3.

NOTE: Another minimum found acceptable in the declaration is the filing date (i.e., date of express mail) and the express mail number, useful where the serial number is not yet known. But note the practice where the express mail deposit is a Saturday, Sunday or holiday within the District of Columbia. 37 C.F.R. 1.10(c).

(complete (c) or (d), if applicable)

Attached is a

- (c) ☒ Statement by a registered attorney that the application filed in the PTO is the application that the inventor executed by signing the declaration.
- (d) ☐ Statement that the "attached" specification is a copy of the specification and any amendments thereto that were filed in the PTO to obtain the filing date.

AMENDMENT CANCELLING CLAIMS

- III. ☐ Cancel claims _____ inclusive.

**TRANSMITTAL OF ENGLISH TRANSLATION
OF NON-ENGLISH LANGUAGE PAPERS**

- IV. ☐ Submitted herewith is an English translation of the non-English language application papers as originally filed. Also submitted herewith is a statement by the translator of the accuracy of the translation. It is requested that this translation be used as the copy for examination purposes in the PTO.

NOTE: For fee processing a non-English application, complete item VI(5) below.

NOTE: A non-English oath or declaration in the form provided by the PTO need not be translated. 37 C.F.R. 1.69(b).

SMALL ENTITY STATUS

- V. ☐ A statement that this filing is by a small entity is hereby asserted in accordance with the rule change effective September 8, 2000, 65 Fed. Reg. 54603.

COPY

COMPLETION FEES

VI.

WARNING: Failure to submit the surcharge fees where required will cause the application to become abandoned.
37 C.F.R. 1.53.

NOTE: For effect on fees of failure to establish status, or change status, as a small entity, see 37 C.F.R. 1.28(a).

1. Filing fee

- ☐ original patent application
(37 C.F.R. 1.16(a)—\$740.00; Small entity—\$370.00)\$ _____
- ☐ design application
(37 C.F.R. 1.16(f)—\$320.00; small entity—\$160.00) \$ _____
\$ _____

2. Fees for claims

- ☐ each independent claim in excess of 3
(37 C.F.R. 1.16(b)—\$84.00; small entity—\$42.00) \$ _____
- ☐ each claim in excess of 20
(37 C.F.R. 1.16(c)—\$18.00; small entity—\$9.00) \$ _____
- ☐ multiple dependent claim(s)
(37 C.F.R. 1.16(d)—\$280.00; small entity—\$140.00) \$ _____

3. Surcharge fees

☐ late payment of filing fee

and/or

☒ late filing of original declaration or oath
(37 C.F.R. 1.16(e)—\$130.00; small entity—\$65.00); \$ 130.00

NOTE: Even where a facsimile declaration or oath signed by the inventor(s) was part of the originally filed papers, the surcharge fee is required.

NOTE: If both the filing fee and declaration or oath were missing from the original papers, only one surcharge fee for both need be paid. 37 C.F.R. 1.16(e).

4. ☐ Petition and fee for filing by other than all the inventors or a person not the inventor (37 C.F.R. 1.17(i) and 1.47—\$130.00) \$

5. ☐ Fee for processing an application filed with a specification in a non-English language (37 C.F.R. 1.17(k) and 1.52(d)—\$130.00) \$

6. ☐ Fee for processing and retention of application (37 C.F.R. 1.21(l) and 1.53(d)—\$130.00) \$

7. ☐ Assignment (See "ASSIGNMENT COVER SHEET".)

NOTE: 37 C.F.R. 1.21(l) establishes a fee for processing and retaining any application which is abandoned for failing to complete the application pursuant to 37 C.F.R. 1.53(f) and this, as well as, the changes to 37 C.F.R. 1.53 and 1.78 indicate that in order to obtain the benefit of a prior U.S. application, either the basic filing fee or the processing and retention fee of § 1.21(l) within 1 year of notification under § 1.53(f) must be paid.

Total completion fees \$ 130.00

EXTENSION OF TIME

VII.

(complete (a) or (b), as applicable)

The proceedings herein are for a patent application, and the provisions of 37 C.F.R. 1.136(a) apply.

(a) ☐ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. 1.17(a)(1)-(4), for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 400.00	\$200.00
<input type="checkbox"/> three months	\$ 920.00	\$460.00
<input type="checkbox"/> four months	\$1,440.00	\$720.00
<input type="checkbox"/> five months	\$1,960.00	\$980.00
		Fee \$ <u>0</u>

If an additional extension of time is required, please consider this a petition therefor.
(check and complete the next item, if applicable)

- ☐ An extension for ____ months has already been secured, and the fee paid therefor of \$ ____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ 0

or

- (b) ☒ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

TOTAL FEE DUE

VIII.

The total fee due is

Completion fee(s)	\$ <u>130.00</u>
Extension fee (if any)	\$ <u>0</u>

Total Fee Due \$ 130.00

PAYMENT OF FEES

IX.

- ☒ Enclosed is a check in the amount of \$ 130.00
- ☐ Charge Account No. _____ in the amount of \$ _____
A duplicate of this request is attached.

NOTE: Fees should be itemized in such a manner that it is clear for which purpose the fees are paid. 37 C.F.R. 1.22(b).

Please charge Account No. 11-1110 for any fees that may be due by this paper.

AUTHORIZATION TO CHARGE ADDITIONAL FEES

X.

WARNING: Accurately count claims, especially multiple dependent claims, to avoid unexpected high charges if extra claims are authorized.

NOTE: "Amounts of twenty-five dollars or less will not be returned unless specifically requested within a reasonable time, nor will the payer be notified of such amounts; amounts over twenty-five dollars may be returned by check or, if requested, by credit to a deposit account." 37 C.F.R. § 1.26(a).

- ☒ The Commissioner is hereby authorized to charge the following additional fees that may be required by this paper and during the pendency of this application to Account No. 11-1110.

- ☒ 37 C.F.R. 1.16(a), (f) or (g) (filing fees)
- ☒ 37 C.F.R. 1.16(b), (c) and (d) (presentation of extra claims)

NOTE: Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 C.F.R. 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.

- ☒ 37 C.F.R. 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
- ☒ 37 C.F.R. §§ 1.17(a)(1)-(5) (extension fees pursuant to § 1.136(a))
- ☒ 37 C.F.R. 1.17 (application processing fees)

NOTE: "A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under § 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in § 1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission." 37 C.F.R. § 1.136(a)(3).

- ☐ 37 C.F.R. 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 C.F.R. 1.311(b))

NOTE: Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of a Notice of Allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance. 37 C.F.R. 1.311(b).

NOTE: 37 C.F.R. 1.28(b) requires "Notification of any change in loss of entitlement to small entity status must be filed in the application . . . prior to paying, or at the time of paying . . . issue fee . . ." From the wording of 37 C.F.R. 1.28(b): (a) notification of change of status must be made even if the fee is paid as "other than a small entity" and (b) no notification is required if the change is to another small entity.



SIGNATURE OF PRACTITIONER

Reg. No. 40,120

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/098,698	03/15/2002	Royce D. Jordan JR.	010563

26285
KIRKPATRICK & LOCKHART LLP
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COPY

CONFIRMATION NO. 5128

FORMALITIES LETTER



OC000000007843853

Date Mailed: 04/10/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 130.

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE